

DECISION

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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-211299**DATE:** April 22, 1983**MATTER OF:** Oro Manufacturing Company**DIGEST:**

1. While Defense Acquisition Regulation (DAR) § 1-313(c) allows a purchasing activity to solicit only approved suppliers of "source controlled" parts, the regulation does not preclude consideration of unapproved sources that can qualify their products.
2. GAO does not review affirmative determinations of responsibility absent a showing of possible fraud or bad faith or misapplication of definitive responsibility criteria.

Oro Manufacturing Company protests the Air Force's decision to award another firm a contract for a quantity of aircraft seats under request for quotations (RFQ) No. FD2050-83-40806. Oro had originally protested to the Air Force; the protest was subsequently denied. We dismiss the protest in part and summarily deny it in part.

The protester essentially makes two arguments: (1) that the aircraft seats should be procured from the protester on a sole-source basis as the only "approved source" for this item and (2) that the awardee does not have the ability to properly perform the contract.

The applicable regulation, Defense Acquisition Regulation (DAR) § 1-313(c) (1976 ed.), permits the procurement of "source controlled" replacement parts "only from sources that have satisfactorily manufactured or furnished such parts in the past, unless fully adequate data * * * test results, and quality assurance procedures, are available with the right to use for procurement purposes * * *." We have taken the position that while DAR § 1-313(c) allows a procuring activity to solicit only approved suppliers, it does not preclude the consideration of unapproved sources which can otherwise qualify their products under suitable testing procedures. Mercer Products & Manufacturing Co., B-188541, July 25, 1977, 77-2 CPD 45; 52 Comp. Gen. 546, 548-49 (1973). Indeed,

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DAR § 1-313 does not constitute a mandate to effect sole source awards regardless of the capability of producers which have not previously supplied the parts in question. Rotair Industries; D. Moody & Co., Inc., 58 Comp. Gen. 149 (1978), 78-2 CPD 410. Thus, alternative producers must always be given an opportunity to qualify when a procurement is conducted under the authority of DAR § 1-313(c). Parker Hannifin Corporation, B-199937(1), October 2, 1981, 81-2 CPD 270. The agency's denial of the original protest indicates that the alternate part has been approved. We therefore find no merit to this basis of protest.

The second argument concerns the Air Force's affirmative determination of the awardee's responsibility, that is, whether the awardee has the capability to produce the item. We do not review an agency's affirmative determination of responsibility unless there is a showing of possible fraud or bad faith on the part of procuring officials or that the solicitation contains definitive responsibility criteria which the procuring officials have allegedly failed to apply. Domar Industries, Inc., B-202735, September 4, 1981, 81-2 CPD 199. Neither exception is applicable here.

The protest is dismissed in part and summarily denied in part.

for *Harry R. Van Cleave*
Comptroller General
of the United States